

FILED & ENTERED

OCT 16 2013

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY gonzalez DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

ROBERT W. HUNT, M.D., a medical
corporation,

Debtor.

Case No. 2:11-bk-58228 ER

Chapter 7

Adv. No. 2:12-ap-01988 ER

DAVID M. GOODRICH, Chapter 7
Trustee,

Plaintiff,

v.

PELI POPOVICH HUNT, individually and
as Trustee of the Robert and Peli
Hunt Living Trust,

Defendant.

MEMORANDUM OF DECISION REGARDING
DEFENDANTS' RIGHT TO JURY TRIAL

On July 17, 2013, the Court entered an Order Vacating Trial Date
and Setting Briefing Schedule on Issue of Defendants' Right to Jury
Trial ("Order"). Pursuant to the Order, the Court, in part, required

1 briefing on the issue of Defendants' right to a jury trial on the
2 remaining issues to be tried, which the Court identified as
3 declaratory relief claims regarding:

- 4 1. whether Defendant, Peli Hunt ("P. Hunt") in her capacity as an
5 individual interfered with the chapter 7 trustee's ("Trustee")
6 administration of assets of the estate by unreasonably and
7 improperly exercising dominion and control over property of the
8 estate;
- 9 2. whether P. Hunt's actions violated 11 U.S.C. § 362(a)(3); and
- 10 3. whether the accounts receivable and medical liens at issue are
11 property of the estate or of the Robert and Peli Hunt Living
12 Trust ("Trust").

13 The Court took this issue under submission as of September 17, 2013.

14 I 15 SUMMARY OF BRIEFS

16 A. Defendants' Brief.

17 Defendants' Brief is unclear and difficult to understand.
18 Defendants appear to make substantive arguments regarding the issues
19 set forth above (i.e., Debtor asserts that the accounts receivables
20 were assigned to the Robert and Peli Hunt Living Trust ("Trust")), and
21 to object to issues already determined by the Court (i.e., issues
22 regarding the Trustee's bond and the sustaining of the proof of claim
23 of certain doctors). Defendants' Brief at 5, 7, 9, 12-13 and 16. These
24 arguments and objections are irrelevant to the issue of whether
25 Defendant is entitled to a jury trial. Notwithstanding, it appears
26 that Defendants' main argument supporting the jury trial demand is
27 that this action involves contracts, and that the "right to a jury
28 trial on a contract claim is an undeniable right." Defendants' Brief

1 at 12 (citation omitted). Defendants appear to identify the contracts
2 at issue as those "arising out of employment disputes [with] the
3 creditor doctors," and accounts receivables. Defendants' Brief at 2,
4 3, 6 and 13.

5 **B. The Trustee's Brief.**

6 In response, the Trustee asserts that Defendants' Brief is
7 nonresponsive to the issue of their entitlement to a jury trial with
8 respect to the issues identified in the Order. The crux of this action
9 is to prevent P. Hunt from interfering with the accounts receivable
10 and lien claims which Debtor scheduled as assets of the estate. The
11 Trustee believes that it is clear from Defendants' Brief, however,
12 that Defendants wish to relitigate the issues which P. Hunt lost in
13 state court against certain doctors, who ultimately obtained a \$3.5
14 million judgment against her and the Debtor. See Defendants' Brief at
15 2; Trustee's Brief at 5.

17 The Trustee argues that a jury trial is not warranted herein,
18 because the "underlying matters to be tried are all statutory and/or
19 equitable claims for which there would be no right to a jury trial
20 under federal law if they had been filed in a federal non-bankruptcy
21 proceeding." Trustee's Brief at 5. The Trustee further contends that
22 this action is akin to a quiet title action, because he is seeking a
23 "judicial determination that his title [in the account receivables and
24 lien claims] is paramount, free of the adverse claims." Trustee's
25 Brief at 6. Because the declaratory relief claims are equitable in
26 nature, no right to a jury trial exists.
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II
DISCUSSION

As noted above, the only discernible basis for a jury trial asserted by Defendants is that this adversary proceeding involves contract claims and that there is an "undeniable" right to a jury trial in a contract action. However, there are no contract claims asserted by the Trustee against Defendant; rather, this action seeks to stop P. Hunt from interfering with the Trustee's administration of accounts receivables and liens claims. Moreover, the mere, *possible* involvement of "contracts arising out of employment disputes as [to] the creditor doctors," and/or accounts receivables which the Defendant refers to as "simple contracts" does not give rise to a right to a jury trial. Defendant's Brief at 2 and 6. "A party has a Seventh Amendment right to [a] jury trial in a breach of contract action to determine whether the contract has been breached and the extent of the damages." Infor Global Solutions (Michigan), Inc. v. St. Paul Fire and Marine Ins.Co., 2009 WL 5909257 *1 (N.D.Cal.) (citations omitted). There are no allegations of breach or damages asserted herein.

Moreover, the right to a jury trial attaches to legal claims, "whereas no right to a jury exists for equitable claims. In determining whether the jury right attaches to a particular claim for relief, courts consider whether the rights and remedies at stake are legal or equitable in nature." Openwave Systems Inc. v. Myriad France S.A.S., 2011 WL 2580991 *1 (N.D.Cal.). The Court agrees with the Trustee that the remaining declaratory relief claims identified in the Order and set forth above are more akin to a quiet title action and are, therefore, equitable in nature. Specifically, the Trustee

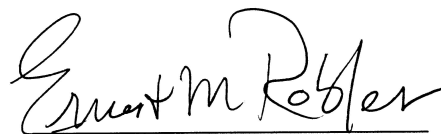
1 essentially seeks to prevent P. Hunt from interfering with the
2 administration of account receivables and lien claims, by obtaining a
3 determination that these assets do not belong to her and/or the Trust.
4 This is similar to a quiet title action because the Trustee "seeks a
5 judicial determination that his title is paramount, free of the
6 adverse claims." Trustee's Brief at 6. Because only an equitable
7 claim is involved herein, there is no right to a jury trial.
8 Openwave, 2011 WL 2580991 *2 (holding that no jury trial attached to
9 claim which was similar to quiet title claim).

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11 **III**
CONCLUSION

12 Based on the foregoing, the Court finds that Defendant has no
13 right to a jury trial herein. The Court shall prepare an order
14 consistent with this Memorandum of Decision.

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24 Date: October 16, 2013

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26 Ernest M. Robles
27 United States Bankruptcy Judge
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NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*) MEMORANDUM OF DECISION REGARDING DEFENDANTS' RIGHT TO JURY TRIAL was entered on the date indicated as AEntered@ on the first page of this judgment or order and will be served in the manner indicated below:

I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF) Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following person(s) by the court via NEF and hyperlink to the judgment or order. As of October 15, 2013, the following person(s) are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email address(es) indicated below.

David M Goodrich (TR) trustee@marshackhays.com,
cl16@ecfbis.com; aconnell@marshackhays.com; dmg@trustesolutions.net

David Gould dgould@gglawllp.com

Kelly L Pexton kelly@pextonlaw.com, kelly.pexton@hotmail.com

James R Selth jim@wsrlaw.net, jselth@yahoo.com; megan@wsrlaw.net

United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

II. SERVED BY THE COURT VIA U.S. MAIL: A copy of this notice and a true copy of this judgment or order was sent by U.S. Mail to the following person(s) and/or entity(ies) at the address(es) indicated below:

Robert L Jarrett
106 1/2 Judge John Aiso #202
Los Angeles, CA 90012

Franklin P Jeffries
106 1/2 Judge John Aiso Ste 340
Los Angeles, CA 90012

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III. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an AEntered@ stamp, the party lodging the judgment or order will serve a complete copy bearing an AEntered@ stamp by U.S. Mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following person(s) and/or entity(ies) at the address(es), facsimile transmission number(s) and/or email address(es) indicated below:

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